

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, have drafted permit conditions to allow the use of raptors protected by the Migratory Bird Treaty Act for abatement activities. We will authorize the use of these raptors for this purpose under our special purpose permits. We are asking for comments on our draft permit conditions. Allowing the use of raptors to conduct abatement activities is consistent with ensuring the long-term conservation of these species and will serve a public need.

DATES: We will accept written comments until February 12, 2007.

ADDRESSES: *Mail:* U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4401 North Fairfax Drive, Mail Stop MBSP-4107, Arlington, VA 22203, or *E-mail:* abatement@fws.gov

FOR FURTHER INFORMATION CONTACT: Shauna Hanisch, Division of Migratory Bird Management, (see **ADDRESSES** section); via e-mail at:

Shauna_Hanisch@fws.gov; by telephone: (703) 358-1714; or by facsimile: (703) 358-2217.

SUPPLEMENTARY INFORMATION:**Background**

The U.S. Fish and Wildlife Service (FWS or Service) is the Federal agency with primary responsibility for managing migratory birds. Our authority is the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). Activities with migratory birds are prohibited unless specifically authorized by regulation. The MBTA authorizes us to issue regulations governing permits for migratory bird use. They are found in title 50, Code of Federal Regulations, parts 10, 13, 21, and 22.

We have implemented a series of migratory bird permit memoranda to ensure consistent implementation of our regulations and policies pertaining to migratory birds. Our latest memorandum in the series provides guidance for issuing Special Purpose permits (50 CFR 21.27) to authorize the possession and use of raptors protected by the MBTA to abate depredation problems. For purposes of this memorandum, "abatement" means the training and use of raptors to flush, haze, or take birds (or other wildlife where allowed) to mitigate depredation problems, including threats to human health and safety. Permit holders may be paid for providing abatement services. We developed this draft memorandum in response to growing

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****Draft Permit Conditions for Abatement Activities Using Raptors**

AGENCY: Fish and Wildlife Service, Interior.

interest in the use of raptors to conduct commercial abatement activities. The Service has determined that authorizing such use is consistent with the MBTA and with the long-term conservation of raptor species. The Service seeks public comments on the draft permit conditions, which are presented below.

Applicants for a Special Use—Abatement (SPA) permit would use FWS Form 3–200–10f, the Migratory Bird Special Purpose—Miscellaneous application form. If we determine that the application meets our requirements, we will issue an SPA permit containing the proposed conditions set forth below. The first three conditions (A, B, and C) are standard for all Special Purpose permits. The remaining conditions (D through K) would be unique to abatement permits. It is about these conditions that we seek comment.

Special Purpose—Abatement Permit Conditions

A. General conditions set out in subpart D of 50 CFR 13, and specific conditions contained in Federal regulations cited in block 2 above, are hereby made a part of this permit. All activities authorized by this permit must be carried out in accord with and for the purposes described in the application submitted. Continued validity, or renewal, of this permit is subject to complete and timely compliance with all applicable conditions.

B. The validity of this permit is conditioned upon strict observance of all applicable State, local, or other Federal law.

C. Valid for use by permittee named above.

D. You are authorized to acquire, possess, and train up to [*specify number*] captive-bred raptors, in any species combination, to include hybrids from those species, of the following migratory bird species for the purpose of conducting abatement activities:

[*List species' common and scientific names.*]

All raptors must be captive-bred and must be marked on the metatarsus with a seamless numbered band issued by the U.S. Fish and Wildlife Service.

E. You may not take species protected under the MBTA unless such take is authorized under a Federal depredation order or a Federal depredation permit identifying you as a subpermittee. You do not need a Federal permit to flush or haze depredating birds, other than endangered or threatened species or bald and golden eagles. You do not need a Federal depredation permit to take species that the MBTA does not protect.

F. Under this permit, you may use a raptor held under your falconry permit

for abatement. However, you may use a raptor held under this abatement permit for falconry only if it is transferred from your abatement permit to your falconry permit. If you use raptors to take depredating game birds in the context of falconry rather than abatement, you must comply with all applicable seasons and bag limits and may do so only in areas where the practice of falconry is authorized.

G. *Subpermittees*: Persons under your direct control or employed by you, or under contract to you for purposes authorized by this permit, may carry out the permitted activities provided they are, or have been, a General or Master Falconer (in accordance with 50 CFR 21.28).

H. You must submit FWS Form 3–186A (Migratory Bird Acquisition and Disposition Report) completed in accordance with the instructions on the form for each acquisition and disposition of a raptor.

I. If your raptor takes a migratory bird in the course of conducting abatement activities and that take is not authorized by a depredation permit or a depredation order, the bird must be left in the field, though the raptor may be allowed to feed on it in the field.

J. All facilities and equipment must meet standards described in 50 CFR 21.29, and all birds must be maintained under humane and healthful conditions at all times.

K. Acceptance of this permit authorizes us to inspect in accordance with 50 CFR 13.47.

Public Comments

Please submit comments to one of the addresses listed above in **ADDRESSES**. If you mail a comment, it must be on 8½-inch-by-11-inch paper. Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. You may inspect comments by appointment during normal business hours at the address in **ADDRESSES**.

Authority: The Migratory Bird Treaty Act, 16 U.S.C. 703–712.

Dated: December 20, 2006.

David M. Verhey,

Assistant Secretary, Fish and Wildlife.

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